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one hundred and eleven the previous year. In the first year class sixty-five colleges and universities, as compared with sixty-nine last year, are represented, as follows: Harvard, 71; Yale, 20; Brown, 11; Dartmouth, 11; Princeton, 10; Bowdoin, 8; Williams, 6; Georgetown, 5; Clark, Hamilton, Wesleyan (Ct.), 4; California, Carleton, Cornell University, Iowa College, 3; Amherst, Central, Kansas, Stanford, Ohio State, Wisconsin, 2; Allegheny, Austin, Boston College, Boston University, Chicago, Coe, Colby, Columbia, Denison, De Pauw, Doane, Fisk, Franklin, Gustavus Adolphus, Hobart, Holy Cross, Illinois College, Illinois University, Indiana, Iowa University, Knox, Lombard, Maine, Miami, Middlebury, Minnesota, Missouri, Montana, Mt. Allison, Nebraska, Nevada, New Brunswick, North Carolina, Northwestern, Ohio, St. Louis, St. Vincents, South, South Carolina, Swarthmore, Virginia, Washington and Jefferson, Western Reserve, Wheaton, 1. There are at present in the School eleven law school graduates, five of whom hold academic degrees also, representing the following law schools: Boston University, Columbia, Dickinson, Harvard, Iowa University, Maryland, Oxford, Pennsylvania, St. Louis, Stanford.

INHERITANCE TAXES ON SUBSEQUENTLY VESTING CONTINGENT REMAINDERS.—Like so many other broad concepts of Constitutional Law, that of vested rights is hardly reducible even to a working definition. The distinction is generally drawn between “vested” rights and mere “expectancies,” which the legislature may freely impair.¹ Thus, various property rights incident to the marriage status are at the legislative mercy. Dower, being inalienable before assignment, may before assignment be diminished or destroyed.² On the other hand, the extent of legislative control over curtesy is in dispute. Yet since curtesy initiate is a present interest, alienable and subject to debts, though the enjoyment is postponed, the better doctrine regards it as a vested right.³ There is a similar diversity of opinion as to the power of the legislature to deprive the husband of his common law right to reduce his wife’s choses in action to possession.⁴ Again, the old right of survivorship in joint tenancies may concededly be destroyed by turning them into tenancies in common.⁵ But the most widely recognized field of legislative control is found in the laws governing descent and distribution.⁶ Inheritance is a privilege, not a right. Heirs presumptive and testamentary beneficiaries have only a present, destructible opportunity of taking under existing expressions of governmental policy as to the disposition of a deceased’s property.

This line of reasoning sustains our numerous inheritance taxes.⁷ The state exacts a bounty on the passing of property by will or intestacy. It is a tax on the privilege of transmission, — not a tax on its receipt, or on property because of ownership. That is the source of the revenue, though the appraisal of interests then created may be postponed because of the difficulty of assessing until contingencies in the way of its possible enjoy-

¹ Cooley, *Const. Lim.*, 7th ed., 508 *et seq.*

² *Randall v. Kreiger*, 23 Wall. (U. S.) 137. But see *Dunn v. Sargent*, 101 Mass. 336

³ See *McNeer v. McNeer*, 142 Ill. 388.

⁴ See note to *Westervelt v. Gregg*, 12 N. Y. 202, in 62 Am. Dec. 160.

⁵ *Holbrook v. Finney*, 4 Mass. 565.

⁶ See *Marshall v. King*, 24 Miss. 85.

⁷ *Matter of Swift*, 137 N. Y. 77, 88; *Knowlton v. Moore*, 178 U. S. 41, 47.

ment are removed.⁸ And yet the Supreme Court has sustained an assessment, under the New York statute, upon an estate appointed under a power granted before the existence of the tax but exercised, by will, thereafter.⁹ But this is no exception to the above doctrine, for the interest is regarded as created as of the time of the exercise of the power, and the state is there again levying on a testamentary disposition. But the New York Court of Appeals decided that a vested remainder is not subject to a subsequently enacted inheritance tax law.¹⁰ The same court now accords similar protection to a contingent remainder. *Matter of Lansing*, 182 N. Y. 238. In other words, from the constitutional, as distinguished from the conveyancing point of view, it regards a contingent remainder as a vested right. While there are important technical differences between vested and contingent remainders in the law of Property, there is little difference in substance. Whether a remainder is vested or contingent is largely a matter of phraseology, and that can hardly control the immediate question. Alienability seems to be, perhaps, the common element of interests that are protected as vested. At common law contingent remainders were inalienable and could be destroyed by tortious feoffments. But the differences in the property incidents of the two classes of remainders have now been almost universally nullified by statute. In most jurisdictions contingent remainders are now alienable and indestructible except by the contingencies on which their fate depends.¹¹ The owner of a contingent remainder has, therefore, a vested right to have the estate when the contingency happens, and that right the legislature should not be permitted to impair by levying a transfer tax for a privilege which has previously ripened into a right. It is conceived, however, that when the remainder is limited to a living man's "heirs," the state may, prior to its vesting, tax the receipt of such property. For to allow a man to become the heir of any person is a privilege which the state may withdraw or alter, and may therefore charge for permitting to continue.

LAW GOVERNING POWER OF APPOINTMENT BY WILL.—In considering what law determines the sufficiency of a will as an exercise of a testamentary power of appointment over personalty, two questions are involved: First, is the instrument, alleged to exercise the power, such a "will" as satisfies the direction of the donor of the power, that the power shall be exercised "by will"? Second, if it is a valid will, does it amount to an exercise of the power? Both of these questions may come up for decision in cases where the donee of a testamentary power of appointment dies domiciled in a different country from the donor, leaving a will which is alleged to exercise the power. In such cases the execution of the power is commonly to be found, if at all, in a universal legacy contained in the will, no direct reference to the power or the property subject thereto being made by the testator.

In both England and the United States the instrument in question is held to be a sufficient "will" if made in accordance with the law of the

⁸ *Matter of Seaman*, 147 N. Y. 69.

⁹ *Orr v. Gilman*, 183 U. S. 278. See also *Carpenter v. Commonwealth*, 17 How. (U. S.) 456; *Gelsthorpe v. Furnell*, 20 Mont. 299, 310.

¹⁰ *Matter of Pell*, 171 N. Y. 48.

¹¹ 21 L. Quar. Rev. 118, 119, note.